

July 3, 2008

Proposition 65 Food Warning Workgroup

Issue Statement of Whole Foods Market

This is submitted on behalf of Whole Foods Market California, Inc. and Mrs. Gooch's Natural Foods, Inc. (collectively, "Whole Foods"). These companies operate Whole Foods Market stores in California.

Whole Foods believes that any "safe harbor" warning for chemicals in foods sold by grocery retailers should address the following issues and concerns:

1. Retailers should not be expected to know what foods may contain chemicals that may require a Proposition 65 warning. This principle is already recognized, if ineffectively, in 22 CCR §12601(b)(2).
2. Food suppliers are also not generally knowledgeable about what chemicals may be present in trace amounts of their products. This issue is further complicated by the vast number of suppliers and their geographic diversity.
3. Shelf signs adjacent to product categories are not the best way to communicate warnings. The same or similar products may be sold in numerous locations throughout a store. The proliferation of shelf signage is confusing to customers. The signs are subject to being moved, obscured, defaced, or removed. Moreover, shelf signs are likely to have to be too small to include all the information that should be provided (see 7, below).
4. It is not feasible generally to require stickers or other labels on individual products. Some industries (for example, beverage alcohol suppliers) may be sufficiently knowledgeable and organized to provide such labels, but the vast majority of food suppliers worldwide are not.
5. The warnings should convey more information than that strictly required by Proposition 65 (see 7, below).
6. Warnings should be on a central prominent poster, available as a prominently advertised handout, or through a prominent kiosk. We believe the handout is preferable, in part because the customer could take the handout home for further study or follow-up investigation, for example, on FDA, EPA and other websites.
7. The "safe harbor" warning should be promulgated by OEHHA and should name the foods known to contain chemicals causing cancer, birth defects, or other reproductive harm, name the chemical associated with the food, identify the type of risk presented by the chemical, and include any comments that might be helpful to the consumer (for example, identify websites or other sources of additional information or advise the consumer how the food might be prepared or stored to reduce any risk). The "safe harbor" warning should be updated from time to time as more information is discovered.